

1 AN ACT  
2 RELATING TO TAXATION; CREATING THE HIGH-WAGE JOBS TAX CREDIT.

3  
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 Section 1. TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

6 A. A taxpayer who is an eligible employer may  
7 apply for, and the taxation and revenue department may allow,  
8 a tax credit for each new high-wage economic-based job. The  
9 credit provided in this section may be referred to as the  
10 "high-wage jobs tax credit".

11 B. The high-wage jobs tax credit may be claimed  
12 and allowed in an amount equal to ten percent of the wages  
13 and benefits distributed to an eligible employee in a new  
14 high-wage economic-based job, but shall not exceed twelve  
15 thousand dollars (\$12,000).

16 C. The high-wage jobs tax credit may be claimed by  
17 an eligible employer for each new high-wage economic-based  
18 job performed for the year in which the new high-wage  
19 economic-based job is created and for the three following  
20 qualifying periods.

21 D. A new high-wage economic-based job shall not be  
22 eligible for a credit pursuant to this section unless the  
23 eligible employer's total number of employees with new  
24 high-wage economic-based jobs on the last day of the  
25 qualifying period at the location at which the job is

1 performed or based is at least one more than the number on  
2 the day prior to the date the job was created.

3 E. With respect to each new high-wage  
4 economic-based job for which an eligible employer seeks the  
5 high-wage jobs tax credit, the employer shall certify:

6 (1) the amount of wages paid to each  
7 eligible employee in a new high-wage economic-based job  
8 during each qualifying period;

9 (2) the number of weeks the position was  
10 occupied during the qualifying period;

11 (3) whether the new high-wage economic-based  
12 job was in a municipality with a population of forty thousand  
13 or more or with a population of less than forty thousand  
14 according to the most recent federal decennial census and  
15 whether the job was in the unincorporated area of a county;  
16 and

17 (4) the total number of employees employed  
18 by the employer at the job location on the day prior to the  
19 qualifying period and on the last day of the qualifying  
20 period.

21 F. To receive a high-wage jobs tax credit with  
22 respect to any qualifying period, an eligible employer shall  
23 apply to the taxation and revenue department on forms and in  
24 the manner prescribed by the department. The application  
25 shall include a certification made pursuant to Subsection E

1 of this section.

2 G. The credit provided in this section may be  
3 deducted from the modified combined tax liability of a  
4 taxpayer. If the credit exceeds the modified combined tax  
5 liability of the taxpayer, the excess shall be refunded to  
6 the taxpayer.

7 H. As used in this section:

8 (1) "benefits" means any employee benefit  
9 plan as defined in Title 1, Section 3 of the federal Employee  
10 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

11 (2) "eligible employee" means an individual  
12 who is employed by an eligible employer and who is a resident  
13 of New Mexico; "eligible employee" does not include an  
14 individual who:

15 (a) bears any of the relationships  
16 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
17 152(a) to the employer or, if the employer is a corporation,  
18 to an individual who owns, directly or indirectly, more than  
19 fifty percent in value of the outstanding stock of the  
20 corporation or, if the employer is an entity other than a  
21 corporation, to an individual who owns, directly or  
22 indirectly, more than fifty percent of the capital and  
23 profits interest in the entity;

24 (b) if the employer is an estate or  
25 trust, is a grantor, beneficiary or fiduciary of the estate

1 or trust or is an individual who bears any of the  
2 relationships described in Paragraphs (1) through (8) of 26  
3 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary  
4 of the estate or trust;

5 (c) is a dependent, as that term is  
6 described in 26 U.S.C. Section 152(a)(9), of the employer or,  
7 if the taxpayer is a corporation, of an individual who owns,  
8 directly or indirectly, more than fifty percent in value of  
9 the outstanding stock of the corporation or, if the employer  
10 is an entity other than a corporation, of an individual who  
11 owns, directly or indirectly, more than fifty percent of the  
12 capital and profits interests in the entity or, if the  
13 employer is an estate or trust, of a grantor, beneficiary or  
14 fiduciary of the estate or trust; or

15 (d) is working or has worked as an  
16 employee or as an independent contractor for an entity that  
17 directly or indirectly owns stock in a corporation of the  
18 eligible employer or other interest of the eligible employer  
19 that represents fifty percent or more of the total voting  
20 power of that entity or has a value equal to fifty percent or  
21 more of the capital and profits interest in the entity;

22 (3) "eligible employer" means an employer  
23 that:

24 (a) made more than fifty percent of its  
25 sales to persons outside New Mexico during the most recent

1 twelve months of the employer's modified combined tax  
2 liability reporting periods ending prior to claiming a  
3 high-wage jobs tax credit; and

4 (b) is eligible for development  
5 training program assistance pursuant to Section 21-19-7 NMSA  
6 1978;

7 (4) "modified combined tax liability" means  
8 the total liability for the reporting period for the gross  
9 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
10 any tax collected at the same time and in the same manner as  
11 the gross receipts tax, such as the compensating tax, the  
12 withholding tax, the interstate telecommunications gross  
13 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
14 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
15 minus the amount of any credit other than the high-wage jobs  
16 tax credit applied against any or all of these taxes or  
17 surcharges; but "modified combined tax liability" excludes  
18 all amounts collected with respect to local option gross  
19 receipts taxes;

20 (5) "new high-wage economic-based job" means  
21 a job created by an eligible employer on or after July 1,  
22 2004 and prior to July 1, 2009 that is occupied for at least  
23 forty-eight weeks of a qualifying period by an eligible  
24 employee who is paid wages calculated for the qualifying  
25 period to be at least:

1 (a) forty thousand dollars (\$40,000) if  
2 the job is performed or based in a municipality with a  
3 population of forty thousand or more according to the most  
4 recent federal decennial census; and

5 (b) twenty-eight thousand dollars  
6 (\$28,000) if the job is performed or based in a municipality  
7 with a population of less than forty thousand according to  
8 the most recent federal decennial census or in the  
9 unincorporated area of a county;

10 (6) "qualifying period" means the period of  
11 twelve months beginning on the day an eligible employee  
12 begins working in a new high-wage economic-based job or the  
13 period of twelve months beginning on the anniversary of the  
14 day an eligible employee began working in a new high-wage  
15 economic-based job; and

16 (7) "wages" means wages as defined in  
17 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).

18 Section 2. DELAYED REPEAL.--The provisions of this act  
19 are repealed effective January 1, 2010. \_\_\_\_\_

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